

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE**

Randolph L. Chambers

v.

Civil No. 08-cv-323-PB

Richard Gerry, Warden,  
New Hampshire State Prison

**O R D E R**

Before the Court is Randolph Chambers' petition for a writ of habeas corpus (document no. 1) and addendum thereto (document no. 3), filed pursuant to 28 U.S.C. § 2254. The matter is before me for preliminary review. See Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts (requiring initial review to determine whether the petition is facially valid); United States District Court District of New Hampshire Local Rule ("LR") 4.3(d)(2) (authorizing magistrate judge to preliminarily review pro se filings by incarcerated persons). Also before the Court for consideration is Chambers' motion to amend his petition for a writ of habeas corpus (document no. 6) and his amended complaint (document no. 7). In those pleadings, Chambers seeks to convert his action from a habeas petition to a civil rights suit under 42 U.S.C. § 1983. As explained in my

Report and Recommendation, issued simultaneously with this Order, I recommend that the petition for a writ of habeas corpus be dismissed and the motion to amend be denied.

For reasons explained in the Report and Recommendation issued this date, I direct the Clerk's Office to open a new civil rights case and to docket Chambers' amended complaint (document no. 7) as the complaint in the new case. The Clerk's office may also rely on Chambers' motion to proceed in forma pauperis (document no. 4), and my previous grant of that motion. Chambers must still submit a certificate of custodial institution. When that certificate is received, the Clerk's Office will forward that information to me for a determination what initial filing fee, if any, is due. When the initial filing fee, if any, is paid, the matter will be forwarded to me for preliminary review. See 28 U.S.C. § 1915(a); LR 4.3(d)(2).

**SO ORDERED.**

  
James R. Muirhead  
United States Magistrate Judge

Date: October 23, 2008

cc: Randolph L. Chambers, pro se